

United States Postal Service

§ 233.12

(6) After screening, mail sealed against inspection that presents doubts about whether its contents are hazardous, that cannot be resolved without opening, must be reported to the Postal Inspection Service. Such mail must be disposed of under instructions promptly furnished by the Inspection Service.

(b) *Threatening pieces of mail.* Mail, sealed or unsealed, reasonably suspected of posing an immediate danger to life or limb or an immediate and substantial danger to property may, without a search warrant, be detained, opened, removed from postal custody, and processed or treated, but only to the extent necessary to determine and eliminate the danger and only if a complete written and sworn statement of the detention, opening, removal, or treatment, and the circumstances that prompted it, signed by the person purporting to act under this section, is promptly forwarded to the Chief Postal Inspector.

(c) *Reports.* Any person purporting to act under this section who does not report his or her action to the Chief Postal Inspector under the requirements of this section, or whose action is determined after investigation not to have been authorized, is subject to disciplinary action or criminal prosecution or both.

[61 FR 28060, June 4, 1996]

§ 233.12 Civil penalties.

False representation and lottery orders—

(a) *Issuance.* Pursuant to 39 U.S.C. 3005, the Judicial Officer of the Postal Service, acting upon a satisfactory evidentiary basis, may issue a mail return and/or a cease and desist order against anyone engaged in conducting a scheme or device for obtaining money or property through the mail by means of a false representation, including the mailing of matter which is non-mailable, or engaged in conducting a lottery, gift enterprise, or scheme for the distribution of money or of real or personal property, by lottery, chance, or drawing of any kind.

(b) *Enforcement.* Pursuant to 39 U.S.C. 3012, any person:

(1) Who, through the use of the mail, evades or attempts to evade the effect

of an order issued under 39 U.S.C. 3005(a)(1) or 3005(a)(2);

(2) Who fails to comply with an order issued under 39 U.S.C. 3005(a)(3); or

(3) Who (other than a publisher described by 39 U.S.C. 3007(b)) has actual knowledge of any such order, is in privity with any person described by paragraph (b) (1) or (2) of this section, and engages in conduct to assist any such person to evade, attempt to evade, or fail to comply with such order, as the case may be, through the use of the mail;

Shall be liable to the United States for a civil penalty in an amount not to exceed \$11,000 for each day that such person engages in conduct described by this paragraph (b). A separate penalty may be assessed under this paragraph (b) with respect to the conduct described by paragraphs (b) (1), (2), or (3) of this section.

[61 FR 56450, Nov. 1, 1996]

EFFECTIVE DATE NOTE: At 81 FR 42533, June 30, 2016, § 233.12 was revised, effective Aug. 1, 2016. For the convenience of the user, the revised text is set forth as follows:

§ 233.12 Civil penalties.

(a) *False representations and lottery orders.* Under 39 U.S.C. 3005(a)(1)–(3), the Postal Service may issue administrative orders prohibiting persons from using the mail to obtain money through false representations or lotteries. Persons who evade, attempt to evade, or fail to comply with an order to stop such prohibited practices may be liable to the United States for a civil penalty under 39 U.S.C. 3012(a). As adjusted under Public Law 114–74, the penalties are as follows: \$68,345 for each mailing less than 50,000 pieces, \$136,689 for each mailing of 50,000 to \$100,000 pieces, and \$13,669 for each piece above 100,000 not to exceed \$2,733,780.

(b) *False representation and lottery penalties in lieu of or as part of an order.* In lieu of or as part of an order issued under 39 U.S.C. 3005(a)(1)–(3), the Postal Service may assess a civil penalty payable under 39 U.S.C. 3012(c)(1). As adjusted under Public Law 114–74, the penalties are as follows: \$34,172 for each mailing that is less than 50,000 pieces, \$68,345 for each mailing of 50,000 to 100,000 pieces, and an additional \$6,834 for every additional 10,000 pieces above 100,000 not to exceed \$1,366,890.

(c) *Misleading references to the United States Government; Sweepstakes and deceptive mailings.* Persons sending certain deceptive mail matter described in 39 U.S.C. 3001(h)–(k), including:

(1) Solicitations making false claims of Federal Government connection or approval;

(2) Certain solicitations for the purchase of a product or service that may be obtained without cost from the Federal Government;

(3) Solicitations containing improperly prepared "facsimile checks"; and

(4) Solicitations for "skill contests" and "sweepstakes" sent to individuals who, in accordance with 39 U.S.C. 3017(d), have requested that such materials not be mailed to them; may be liable to the United States for a civil penalty under 39 U.S.C. 3012(d). As adjusted under Public Law 114-74, this penalty is not to exceed \$13,669 for each mailing.

(d) *Commercial use of lists of persons electing not to receive skill contest or sweepstakes mailings.* Under 39 U.S.C. 3017(g)(2), the Postal Service may impose a civil penalty against a person who provides information for commercial use about individuals who, in accordance with 39 U.S.C. 3017(d), have elected not to receive certain sweepstakes and contest information. As adjusted under Public Law 114-74, the penalty may not exceed \$2,733,780 per violation.

(e) *Reckless mailing of skill contest or sweepstakes matter.* Under 39 U.S.C. 3017(h)(1)(A), any promoter who recklessly mails non-mailable skill contest or sweepstakes matter may be liable to the United States for a civil penalty for each mailing to an individual. As adjusted under Public Law 114-74, the penalty is \$13,669 per violation.

(f) *Hazardous material.* Under 39 U.S.C. 3018(c)(1)(A), the Postal Service may impose a civil penalty payable into the Treasury of the United States on a person who knowingly mails nonmailable hazardous materials or fails to follow postal laws on mailing hazardous materials. As adjusted under Public Law 114-74, the penalty is at least \$295, but not more than \$117,858 for each violation.

PART 235—DEFENSE DEPARTMENT LIAISON

Sec.

235.1 Postal Service to the Armed Forces.

235.2 Civil preparedness.

§ 235.1 Postal Service to the Armed Forces.

(a) Publication 38, Postal Agreement with the Department of Defense, defines the Postal Service's responsibilities for providing postal service to the Armed Forces.

(b) The Chief Inspector is responsible for military liaison.

(c) Postal inspectors provide liaison between postmasters and military commanders, visit military installations as

required, and make any necessary recommendations.

(39 U.S.C. 401(2), 402, 403, 404, as enacted by Pub. L. 91-375, 84 Stat. 719)

[38 FR 26193, Sept. 9, 1973]

§ 235.2 Civil preparedness.

(a) *Mission.* The prime objective of postal emergency preparedness planning is to maintain or restore essential postal service in a national emergency, natural disaster, or disruptive domestic crisis.

(b) *Emergency Coordinator.* The Chief Inspector is designated Emergency Coordinator for the Postal Service. As Emergency Coordinator, he provides general direction and coordination of the following programs:

(1) National Civil Preparedness and Defense Mobilization;

(2) Natural Disaster Preparedness;

(3) Emergency Response to Disruptive Domestic Crisis.

(c) *Regional Emergency Coordinator.* The Chief Inspector may delegate authority to Regional Chief Postal Inspectors, or others, for the function of Regional Emergency Coordinator and the general direction and coordination of all such programs within the Postal Regions, as are conducted by him at the National level.

(d) *Postmaster General emergency line of succession.* (1) Deputy Postmaster General; (2) Senior Assistant Postmaster General, Administration; (3) Senior Assistant Postmaster General, Operations.

(e) *Headquarters and field lines of succession.* Each Headquarters organizational unit shall establish its own internal line of succession to provide for continuity under emergency conditions. Each Regional Postmaster General, Regional Chief Inspector, Postal Data Center Director, Inspector in Charge, and postmaster at first-class post offices shall prepare a succession list of officials who will act in his stead in the event he is incapacitated or absent in an emergency. Orders of succession shall be shown by position titles, except those of the Inspection Service may be shown by names.

(f) *Field responsibilities.* Postmasters and heads of other installations shall: